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FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ DEC 02 2019 ★

November 29, 2019

Order

The application is granted.

denied.

referred to the Magistrate Judge.

LONG ISLAND OFFICE

VIA ECF

The Honorable Sandra J. Feuerstein
United States District Court
100 Federal Plaza
Central Islip, New York 11722

TIME IS WAVED UNTIL THE NEXT CONFERENCE
DATE 12/18/2019 AT 11:15 AM. TRAVEL
REQUEST IS GRANTED.

Re: United States v. John Drago, 18 Cr. 394 (SJF)

s/ Sandra J. Feuerstein

Dear Judge Feuerstein:

As counsel for Mr. Drago in this matter, I am writing to respectfully request the following:

- 1) that, with the government's consent, the date of the next appearance, currently scheduled for December 3, 2019 be rescheduled to December 18, 2019 and;
- 2) that the Court modify Mr. Drago's bail conditions to permit him to travel to Florida at the end of December.

On November 27, 2019, the government filed a letter in furtherance of their request that this case be deemed complex despite the Court's order suppressing the majority of the evidence in this case that was seized from Mr. Drago's business. The defense requests additional time to respond to the government's letter which was filed more than two weeks after the Court's deadline.

At the last appearance on October 22, 2019, the government indicated that it had approximately "20 witnesses, both employees, former employees and customers, relative to the conduct of the business." (Transcript at 14). While the announcement that there were 20 witnesses independent of the taint of the suppressed warrant was a surprise to the defense, it was clear that the government understood that the admissibility of this testimony was subject to an independent source hearing. (Transcript at 14) (testimony of witnesses "would have to be subject to a [defense] motion prior to trial.").

In light of this information, the Court stated the following:

THE COURT: Here's what we're going to do. As far as your application to have this declared complex, I would like affidavits from those potential witnesses. They may be numbered rather than named if you prefer anonymity for them before I make a decision

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about complexity, okay? At this point it's still a complex case and, therefore, time is waived.

(Transcript at 14-15). The government indicated that they could provide the affidavits of the 20 witnesses in two weeks and the Court ordered the government to provide the affidavits in three weeks, which would have been November 12.

The defense is seeking additional time to respond to this submission and the government consents to this application.

We are respectfully requesting that the Court adjourn the next court appearance, currently scheduled for December 3, 2019, to December 18, 2019. This is a date convenient to the defense and the government. If this date is not convenient for the Court, the parties will work to find additional dates convenient to the Court.

For the purpose of this application, the defense waives speedy trial time rights in accordance with the Court's order on October 22, 2019 that time is waived under the Court's original finding that this matter be deemed complex. (Transcript at 15).

Finally, Mr. Drago requests modification of his bail conditions to allow him to travel to Florida from December 26, 2019 to January 2, 2020. It is a family trip. Mr. Drago will provide the specific details of his travel plans to Pretrial Services. I have communicated with Mr. Drago's assigned Pretrial Services officer, who has expressed no objection to this request. I have also conferred with the prosecutors to this matter and they take no position with regard to this request.

We thank the Court for its consideration of each of these two requests.

Sincerely,



Anthony M. Capozzolo
Attorney for Mr. Drago